IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 7509 OF 2004

Shri Manik Ishwar Salunkhe .. Petitioner.

vs.

The State of Maharashtra

& Ors. .. Respondents.

Shri Shekhar Ingawala with H.G. Wakshe

for petitioner.

Shri R.D. Rane, Addl. G.P. for R.Nos. 1 & 2.

Shri P.A. Pol for R. Nos. 3 & 4.

CORAM : A.P. SHAH &

S.U. KAMDAR, JJ.

DATE : 29th September,2004

P.C.

. Rule.

2. Respondents 1 to 4 waive service.

3. By consent, rule is made returnable forthwith.

4. The petitioner is B.A. B.Ed in English and he

has been appointed on 30.6.2001 in respondent no. 4 school as Shikshan Sevak on clear vacancy under Shikshan Sevak Scheme introduced by the Government Resolution dated 13.10.2000. However, it appears that the petitoner has not been paid his salary from inception till date i.e. for a period of three years and further the Deputy Director has not issued confirmation letter as per the provisions of the Government Resolution dated 13.10.2000.

5. There is no dispute that the school authority has granted approved to the appointment of the petitoner by Resolution dated 2.9.2001. In the meantime, one Maheshkumar Bapuso Deshmukh filed a writ petition being Writ Petition No. 646 of 2002 for repatriation to respondent no. 4 school as he was declared surplus and was transferred to Shivaji Vidyalaya Dudhorali, Taluka Palus, District Sangli in the year 1999 and claimed the post of the petitioner. This Court dismissed the writ petition on 9.9.2002 on the ground that the post on which the petitoner is appointed has not been revived nor any additional post has been created and, therefore, the petitioner is not entitled to claim repatriation in the respondent no. 4 school. We may mention that in the said writ petition the Deputy Education Officer filed an affidavit stating that since the present petitoner in the said writ petition was not appointed and other persons (i.e. the petitioner)

were appointed, the Education Officer has not granted sanction to their appointment.

6. We have heard the learned counsel for the parties. In view of the dismissal of the writ petition filed by Maheshkumar Deshmukh, we do not see any impediment in granting approval in favour of the present petitioner. There is no dispute that the petitioner is fully qualified to hold the post of Shikshan Sevak and he has been working in the said post for more than three years. We, therefore, direct the respondent nos. 1 and 2 to grant confirmation to the petitioner as per the Government Resolution dated 13.10.2000 and release the salary of the petitioner right from the date of his appointment i.e. 1.7.2001. The salary shall be released within a period of two months from today.

7. Rule is made absolute accordingly. No order as to costs.